



[Billing Code: 4810–31–P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2012–0003; T.D. TTB–108; Ref: Notice No. 128]

RIN: 1513–AB85

Establishment of the Ancient Lakes of Columbia Valley Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the 162,762-acre “Ancient Lakes of Columbia Valley” viticultural area in Douglas, Grant, and Kittitas Counties in central Washington. The viticultural area lies entirely within the larger Columbia Valley viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;

- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, and that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Ancient Lakes of Columbia Valley Petition

TTB received a petition from Joan R. Davenport, a professor of soil sciences at Washington State University, and Cameron Fries of White Heron Cellars, on behalf of the vintners and grape growers in the Ancient Lakes region of central Washington, proposing the establishment of the “Ancient Lakes of Columbia Valley” viticultural area. The proposed viticultural area contains 162,762 acres, with 1,399 acres dedicated to 6 commercially-producing vineyards. The petition states that there are also six wineries located within the proposed viticultural area. The petition includes a map showing that the vineyards and wineries are dispersed throughout the proposed viticultural area.

TTB notes that the proposed Ancient Lakes of Columbia Valley viticultural area lies completely within the existing Columbia Valley viticultural area (27 CFR 9.74). The proposed viticultural area does not overlap with any other existing or proposed viticultural areas.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 128 in the **Federal Register** on May 8, 2012 (77 FR 27001), proposing to establish the Ancient Lakes of Columbia Valley viticultural area. In the proposed rule, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed viticultural area. The distinguishing features of the proposed viticultural area include climate, topography, and soils. The proposed rule contained a comparison of the distinguishing features of the proposed viticultural area with the surrounding regions. Notice No. 128 also contained a comparison of the proposed viticultural area with the existing Columbia Valley viticultural area detailing how the distinguishing features of the proposed viticultural area are consistent with, and distinct from, the established Columbia Valley viticultural area. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area, see Notice No. 128.

In Notice No. 128, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. In addition, given the proposed viticultural area's location within the existing Columbia Valley viticultural area, TTB also solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates the proposed viticultural area from the existing Columbia Valley viticultural area. TTB also asked for comments on whether the geographical features of the proposed viticultural area are so distinguishable from the surrounding Columbia Valley

viticultural area that the proposed Ancient Lakes of Columbia Valley viticultural area should no longer be part of the existing viticultural area. The comment period closed on July 9, 2012.

In response to Notice No. 128, TTB received a total of three comments regarding the proposed viticultural area: One from Cameron Fries, one of the original petitioners; one from the executive director of a Washington State non-profit wine tourism promotion association; and one from the City Administrator of Quincy, Washington, commenting on his own behalf. All three commenters supported the establishment of the Ancient Lakes of Columbia Valley viticultural area as proposed in Notice No. 128. TTB received no comments in opposition of the Ancient Lakes of Columbia Valley viticultural area as proposed. In regards to the question of whether the Ancient Lakes of Columbia Valley viticultural area was so distinct that it should be separated from the existing Columbia Valley viticultural area, TTB received no comments.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 128, TTB finds that the evidence provided by the petitioner supports the establishment of the 162,762-acre Ancient Lakes of Columbia Valley viticultural area within the Columbia Valley viticultural area. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and part 4 of the TTB regulations, TTB establishes the “Ancient Lakes of Columbia Valley” viticultural area in Douglas, Grant, and Kittitas Counties, Washington, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this final rule.

Maps

The petitioners provided the required maps, and TTB lists them below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area, its name, "Ancient Lakes of Columbia Valley," is recognized as a name of viticultural significance under 27 CFR 4.39(i)(3), as the text of this regulation makes clear. Once this regulation becomes effective, wine bottlers using "Ancient Lakes of Columbia Valley" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

The establishment of the Ancient Lakes of Columbia Valley viticultural area will not affect any existing viticultural area, and any bottlers using "Columbia Valley" as an appellation of origin or in a brand name for wines made from grapes grown within the Ancient Lakes of Columbia Valley viticultural area will not be affected by the establishment of this new viticultural area. The establishment of the Ancient Lakes of Columbia Valley viticultural area will allow vintners to use "Ancient Lakes of Columbia Valley" and "Columbia Valley" as

appellations of origin for wines made from grapes grown within the Ancient Lakes of Columbia Valley viticultural area.

For a wine to be eligible to use a viticultural area name as an appellation of origin or a term of viticultural significance in a brand name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name or other term of viticultural significance appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term of viticultural significance appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.227 to read as follows:

§ 9.227 Ancient Lakes of Columbia Valley.

(a) Name. The name of the viticultural area described in this section is “Ancient Lakes of Columbia Valley”. For purposes of part 4 of this chapter, “Ancient Lakes of Columbia Valley” is a term of viticultural significance.

(b) Approved maps. The 12 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Ancient Lakes of Columbia Valley viticultural area are titled:

- (1) West Bar, Washington, 1966;
- (2) Rock Island Dam, Washington, 1966;
- (3) Appledale, Washington, 1966, photoinspected 1976;
- (4) Monument Hill, Washington – Grant County, 1966;
- (5) Ephrata SW, Washington – Grant County, 1956;
- (6) Winchester, Washington – Grant County, 1966;
- (7) Winchester SW, Washington – Grant County, 1966, photorevised 1978;
- (8) Royal City, Washington – Grant County, provisional edition 1986 (formerly named Smyrna);
- (9) Beverly NE, Washington – Grant County, 1965;
- (10) Vantage, Washington, 1965, photorevised 1978;
- (11) Ginkgo, Washington, 1953, photorevised 1978; and
- (12) Cape Horn SE, Washington, 1966, photoinspected 1975.

(c) Boundary. The Ancient Lakes of Columbia Valley viticultural area is located in Douglas, Grant, and Kittitas Counties in central Washington. The boundary of the Ancient Lakes of Columbia Valley viticultural area is as described below:

(1) The beginning point is on the West Bar map where the western shoreline of the Columbia River in Kittitas County intersects with the north boundary line of section 8, T20N/R22E. Proceed east along the section boundaries for approximately 4.35 miles, over the Columbia River and into Douglas County, to the intersection of the line with the Grant and Douglas

Counties common boundary line (concurrent with the R22E and R23E common line) at the northwest corner of section 12, T20N/R22E; then

(2) Proceed north along the Grant and Douglas Counties common boundary line for approximately 2.25 miles, onto the Rock Island Dam map, to the northwest corner of section 31, T21N/R23E; then

(3) Proceed east in a straight line along the section boundaries for approximately 12.1 miles, over the Appledale and Monument Hills maps, onto the Ephrata SW map to the intersection of the line with the R24E and R25E common line at the northwest corner of section 36, T21N/R24E; then

(4) Proceed south along the R24E and R25E common line for approximately 22.5 miles, over the Winchester and Winchester SW maps, onto the Royal City map, passing over the West Canal and into the Frenchman Hills, to the southwest corner of section 12, T17N/R24E (concurrent with the intersection of the R24E and R25E common line and a single transmission line); then

(5) Proceed west in a straight line along the section boundaries (marked for 3 sections by the single transmission line) for approximately 4 miles, onto the Beverly NE map, to the southwest corner of section 9, T17N/R24E; then

(6) Proceed north in a straight line along the section boundary for approximately 1 mile to the northwest corner of section 9, T17N/R24E; then

(7) Proceed west in a straight line along the section boundaries for approximately 7.9 miles, onto the Vantage map, crossing over Interstate Route 90 and Columbia River, to the western shoreline of the Columbia River, at Hole in the Wall in Kittitas County, section 6, T17N/R23E; and then

(8) Proceed north along the western shoreline of the meandering Columbia River for approximately 23.3 miles, crossing over the Ginkgo and Cape Horn SE maps, and onto the West Bar map, returning to the beginning point.

Signed: September 18, 2012.

John J. Manfreda

Administrator.

Approved: September 27, 2012.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

[FR Doc. 2012-25639 Filed 10/17/2012 at 8:45 am; Publication Date: 10/18/2012]